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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,171	09/19/2003	Samer R. White	65858-0024	7110
10291 7590 02/13/2007 RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610			EXAMINER SILVER, DAVID	
			ART UNIT 2128	PAPER NUMBER
			MAIL DATE 02/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/666,171

Applicant(s)

WHITE, SAMER R.

Examiner

David Silver

Art Unit

2128

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

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Continuation of 11. does NOT place the application in condition for allowance because:

1. Argument I

1.1. Applicants argue:

1.1.1. While Mazur does disclose a test dummy, Mazur actually teaches against a “first point selectively acting as a pivot point for said test dummy” because Mazur teaches securing a seat on which a dummy rests to a pivot point. (E.g., Mazur, Fig. 4.)

(Remarks: page 7)

1.1.2. In fact, when the seat 12 is pivoted, it “contact(s) the stop 24 rapidly halting the motion of the seat,” and “as a result of momentum transfer, the dummy 14 is urged away from the seat 12 in a forward direction as shown into the pre-impact position.” (Mazur, 4: 24-32.)

(Remarks: page 8)

1.2. Examiner Response:

1.2.1. Arguments regarding the teaching away / teaching against are applicable in 35 USC 103 obviousness rejections. Claim 1 was rejected under 35 USC 102; therefore, the instant argument is not applicable.

1.2.2. Nevertheless, it is inherent that the dummy is secured to a seat, as admitted above by Applicants. Furthermore, as admitted by Applicants above (see subsection 2 *supra*), the seat pivots. Therefore, because the dummy is secured to the seat, and the seat pivots, the dummy pivots as well.

2. Argument II

2.1. Applicants argue:

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- 2.1.1. Mazur teaches at most applying a force to the seat 12, and not to any points relative to the test dummy 14. For example, Figure 5 of Mazur illustrates that "seat 12 is slidable on the track 38" and that a force may effectively be applied to seat 12 by releasing a spring 40. (Mazur, 5: 28-45.)

(Remarks: page 8)

2.2. **Examiner Response:**

- 2.2.1. The dummy is secured to the seat. A force is applied to the seat, as admitted by Applicants. The force is therefore applied to anything that is secured to the seat. Therefore, the force is being applied to the dummy.

3. **Argument III**

3.1. **Applicants argue:**

- 3.1.1. Indeed, a casual inspection of Figure 5 of Mazur shows that the dummy 14 is not secured at any fixed point, that no linear force is applied to any point fixed with respect to the dummy 14, and at no point is established and displaced with respect to the dummy 14 and offset from the first and second points.

(Remarks: page 9)

3.2. **Examiner Response:**

- 3.2.1. This statement is not agreed-to. Specifically, Applicants readily agree that the dummy is indeed secured to the seat and therefore a fixed point. The force is being applied to the seat and therefore the dummy.

4. **Argument IV**

4.1. **Applicants argue:**

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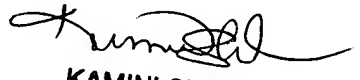
- 4.1.1. Independent claim 1 recites in part "estimating an amount of said forward-directed displacement occurring at said third point . . ." Independent claim 8 recites in part "said forward displacement of said third point being estimated . . ." The Examiner appears to have conceded that these limitations are not taught or suggested by Mazur, arguing that they are "an inherent feature."

(Remarks: page 10)

4.2. **Examiner Response:**

- 4.2.1. The reference teaches determination of the positioning of the dummy upon collision (application of force) (**col: 6 line: 15-25**). The head, for example, (third point) is a part/point on the dummy. Therefore, when determining the position of the dummy due to the applied force (col: 6 line: 15-25 "crash pulse"), the position and displacement of the head (third point) are also determined. Therefore, the position of the third point, which in this instance correlates to the head is inherently determined.

5. The Instant Application is not currently in condition for allowance.


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